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Case No.: 200,566-7

**SUPREME COURT
OF THE STATE OF WASHINGTON**

In re Stephen K. Eugster, Attorney at Law

WSBA No. 2003

ANSWER TO PETITION FOR SUSPENSION

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I. SUMMARY ANSWER:

Under ELC 7.2(a)(2),

When the Board enters a decision recommending disbarment, disciplinary counsel must file a petition for the respondent's suspension during the remainder of the proceedings. The respondent must be suspended absent an affirmative showing that the respondent's continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest.

The petition should be rejected based on the following reasons:

- (1) **No disciplinary history:** Eugster was admitted to practice on January 2, 1970, 38 years ago,¹ and has no prior disciplinary record.²
- (2) **Confusing and erroneous findings:** The Bar relied on admittedly confusing,³ erroneous and inapposite findings⁴ to

¹See Eugster Declaration [See Appendix 1-11]

²“Respondent has no prior disciplinary record.” CP 20 [FOF 3.16]

³According to the Disciplinary Board Order Adopting Hearing officer’s Decision with Amendments, “*Many of these modifications are made to clarify the findings, rather than make actual substantive changes. The Disciplinary Board does not usually modify findings under these circumstances. In this case, the Board determined that the Findings as a whole were so confusing that the modifications were necessary to prevent confusion.*” CP 5:1-4 [also Petition App. A] (Emphasis added). Adding to the confusion is the fact that the FOF/COL and exhibits use the same numbers twice. Petition at fn. 1.

recommend Eugster be disbarred based on his two to three month representation of Marion Stead. She is described as “an elderly, grieving widow suffering from depression and physical health problems who had a difficult relationship with her only son.”⁵ She had not and did not manage her own financial affairs.⁶

- (3) **Based on single act authorized by RPC 1.13 and protected by state law:** This case is based on a distinct single act of alleged misconduct: filing a petition of guardianship to protect a vulnerable person.⁷ The Hearing

⁴Attached as Exhibit A to the Opening Brief are Eugster’s challenges to the FOF and COL.

⁵CP 48-49 [FOF 3.14].

⁶They were being handled by her only son, Roger, at no charge, before he was replaced by attorney Stephen Trefts, dba Northwest Trustee and Management Services which was essentially given a blank check to charge for their services. See Ex. 39 [According to the Durable General Power of Attorney prepared by Andrew Braff, Stephen Trefts d.b.a. Northwest Trustee and Management Services was entitled to reimbursement for all costs and expenses and “shall be entitled to receive at least annually, without court approval, reasonable compensation for services performed on the principal’s behalf.” (emphasis added)]

⁷The bar alleges that Eugster should be disbarred for “knowingly filing a petition for guardianship that was not well grounded in fact against a former client without making a reasonable inquiry about the client’s mental condition.” Petition at 2 (emphasis added). “He filed a baseless guardianship action against the client to place himself in control of his client’s assets.” *Id.*, at 9. Beyond being factually incorrect (the client’s only son was the proposed guardian as clarified in Amended COL 3.3), the Bar ignores RPC 1.13 (below) and mischaracterizes this as “engaging in conduct prejudicial to the administration of justice by commencing a guardianship against a former client after being terminated.” *Id.*, (emphasis added). RPC 1.16 comment 6 states “If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client’s interests.” A guardianship action is taken to

Officer and Board failed to fully consider Eugster's contractual, ethical⁸ and/or legal duty to take protective action.

- (4) **Outstanding character and reputation:** Eugster's continued practice of law will not be detrimental to the integrity and standing of the bar and the administration of justice, or contrary to the public interest as evidenced by the numerous declarations in support of his outstanding character and reputation from attorneys, clients and community leaders.⁹

help individuals "for their own health or safety, or to manage their financial affairs." RCW 11.88.005. Competence is a legal, not a medical, decision. RCW 11.88.010(1)(c). State law provides that a "any person" may petition for the appointment of a guardian of an incapacitated person" and that there will be "no liability for filing a petition" so long as the petitioner is "acting in good faith and upon a reasonable basis." RCW 11.88.030. Here, Stead abruptly changed attorneys and changed the estate plan established by her and her husband so as to eliminate her only son and grandchild. She inexplicably hired NW Trustee & Management Services at several thousand dollars a month to pay for services heretofore provided at no cost by her only son. They helped facilitate execution of a new will two days before her death. Even the hearing officer acknowledged that, under the circumstances, the son's challenge to the will "seems to be a prudent action to protect his daughter." CP 59-60.

⁸RPC 1.13 CLIENT UNDER A DISABILITY: (a) When a client's ability to make adequately considered decisions in connection with the representation is impaired, whether because of minority, mental disability or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client. (b) When the lawyer reasonably believes that the client cannot adequately act in the client's own interest, a lawyer may seek the appointment of a guardian or take other protective action with respect to a client. [emphasis added]

⁹See Appendix B-1 to B-50 [Declarations]. Note, the Hearing Officer did not consider Eugster's character and reputation as a mitigating factor. CP 50 (3.20). The Officer arrived at this conclusion by considering such hearsay

- (5) **Limited practice and proposed supervision:** Eugster's present practice is very limited and counsel would be willing to supervise his practice during the remainder of the proceedings.

II. STATEMENT OF THE CASE:

In the interests of judicial economy and given the admittedly confusing FOF, Eugster incorporates by reference the Statement of the Case found in his Opening Brief.¹⁰

III. ARGUMENT:¹¹

Eugster did not fail to abide by Marion's objectives. For her own protection, Eugster had an ethical duty and/or legal authority to ask the court to determine whether she was impaired and incapable of managing her affairs.¹²

Eugster attempted to abide by Marion's objectives which were to review her estate plan and ensure that her son, Roger, was not taking advantage of her in his management of her estate.

Eugster consulted with Marion as to the means by which to pursue

evidence as "an evaluation conducted by the Spokane County Bar Association reflecting that Respondent was not qualified to be a judge." CP 49 (3.17) and CP 50 (3.20)

¹⁰In re Stephen K. Eugster, Case No. 200,568-3 [Opening Brief]. Appendix A

¹¹These respond to the 4 grounds for disbarment stated in the Petition at 1-2.

¹²Count I [RPC 1.2(a)] FOF & COL at pg. 21

her objectives.¹³ Marion asked to designate Eugster as primary Attorney-in-Fact, personal representative and trustee with Roger as second in line. The Hearing Officer realized that these uncontested facts were completely inconsistent with the Bar's theory of misconduct. As stated in the FOF 2.21, "Ms. Stead did not testify during this proceeding, so why she would agree to have Roger as successor remains a mystery."¹⁴

It was not a mystery at all. Marion wanted Roger to continue to serve if all was in order. All Eugster was to do, all Marion wanted him to do, was put himself before Roger for the time being so as to check things out. Eugster did not expect to continue as person with a power or as a trustee if it turned out that

¹³RPC 1.2(a); Eugster had previously prepared wills for the Stead. CP 386

¹⁴*Id.* Although Marion passed away before the hearing, the Bar began its investigation in January 2005 but for unexplained reasons never interviewed Marion. Eugster maintains that his due process rights to confrontation were violated if hearsay from a dead person is allowed. See Brief of Respondent at 27-30.

Roger was what he had always been: a loyal, dutiful and unselfish son.¹⁵

Eugster tried to maintain a normal client – lawyer relationship with Marion.¹⁶ He pursued as much as he reasonably could her objectives and her estate plan as they existed in July of 2004. He acted immediately and rationally to take steps to protect Marion’s assets in the event her expressed concerns concerning Roger proved to be correct. Yet, he was doubtful Marion completely understood her affairs – that she had the ability to make adequately considered decisions concerning her affairs. RPC 1.13 Eugster, as a result of continued contact and experience with Marion and in light of what her objectives were, reasonably believed that Marion could not adequately act in her own interest. In light of the rapidly changing circumstances and the intervention of third parties (i.e. attorneys Braff and Trefts), Eugster believed

¹⁵According to FOF 2.12, “Roger worked in hospitals until an inheritance from his father’s family made working for a living unnecessary.”

¹⁶RPC 1.14(a)

he had an obligation to protect Marion from financial harm¹⁷ and, therefore sought the appointment of a guardian.¹⁸

Eugster did not use a “former”¹⁹ client’s secrets and confidences to her disadvantage when he petitioned for guardianship for her benefit as authorized by RPC 1.13 and state law.

Washington's guardianship statutes are solely designed to protect a person of diminished capacity.²⁰ The purpose of a guardianship isn't for the attorney's (or anyone else's) benefit but to protect the prospective ward's interests.²¹ The best interests of

¹⁷This includes attorneys Andrew Braff and Stephen Trefts, d.b.a. Northwest Trustee and Management Services.

¹⁸Although Marion stated in response to the guardianship petition that she believed Eugster filed it for financial gain, it was pure speculation. There was absolutely no proof of that claim. FOF at p. 22. Eugster's sole intent was to protect Marion consistent with RPC 1.13.

¹⁹The Hearing Officer seems to have completely missed the point that if Marion's mental impairment reached the point of incompetency, then she would have lacked capacity to terminate Eugster and therefore would not be a “former client.” See RPC 1.14 Comment 6 [“If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client's interests.”]

²⁰See Ch. 11.88 RCW; *In re Guardianship of Karan*, 110 Wn. App. 76, 80, 38 P.3d 396 (2002).

²¹*In re Mignerey's Guardianship*, 11 Wn.2d 42, 118 P.2d (1941) [“the trial court, of course, may, in an endeavor to ascertain all relevant and material facts, hear anyone who is apparently able to assist the court in

the prospective ward are the court's sole concern. Here, the guardianship was not filed "against" Marion but for her benefit.

RPC 1.13(b)²² [in effect in 2004] simply states:

When the lawyer reasonably believes that the client cannot adequately act in the client's own interest, a lawyer may seek the appointment of a guardian or take other protective action with respect to a client.

Although, RPC 1.13 was superseded by and is more liberal than RPC 1.14²³, the Hearing Officer completely ignored the applicability of RPC 1.13. The Hearings Officer only cited RPC 1.13 once in passing²⁴ even though Eugster repeatedly raised the

so determining the matter as to best conserve the interests of the person for whom a guardian is to be appointed."]

²²"Client under a Disability" whereas the revised 1.14 is entitled "Client with Diminished Capacity."

²³ RPC 1.14(b) states: "When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian." [emphasis added]

²⁴FOF at 23 ["After receiving a letter discharging him as Ms. Stead's attorney, he listed himself as current attorney in the guardianship action and then attempted to use former RPC 1.6 as a defense, saying he divulged information to protect his client, and former RPC 1.13 for the representation."]

issue beginning with his Answer to the Complaint²⁵ and briefs.²⁶

There is absolutely no finding that Eugster violated or failed to act reasonably under RPC 1.13, the rule in effect at the time he represented Stead.

Evidently, the Hearing Officer and Board erroneously applied RPC 1.14 retroactively against Eugster. This is illustrated by the core recommendation that Eugster be disbarred based on “knowingly filing a petition for guardianship that was not well grounded in fact against a former client without making a reasonable inquiry about the client’s mental condition.”²⁷

Likewise, the Hearing Officer states that “There was never any suggestion that Ms. Stead was consulted or agreed to the guardianship.”²⁸ Under RPC 1.13(b), the lawyer need only reasonably believe at the time that “the client cannot adequately act

²⁵CP 40.

²⁶Brief of Respondent at 23 [“Contractual Statuses and RPC 1.13”].

²⁷Count 5 and 8 [RPC 1.15(d); 3.4 and CR 11] FOF & COL at pg. 25.

²⁸FOF 2.31. A requirement that an impaired person agree to a court authorized guardianship would eviscerate the purpose and intent of the law.

in the client's own interest." The standard is subjective and prospective, not retrospective.

Under RPC 1.13(b), the lawyer is under no obligation to consult with the client²⁹ or others before seeking the appointment of a guardian for the person. This is also true under the state guardianship law³⁰ and Vulnerable Adults Statute.³¹

Under RPC 1.13(b), the lawyer is not required to test the extent of the client's impairment, disability, diminished capacity, competency or sanity before seeking the appointment of a guardian for that person.³² That would be for the court to decide, not the

²⁹To illustrate the Hearing Officer's lack of understanding of RPC 1.13 and guardianship law in general she states in the FOF 2.31 that "There was never any suggestion that Ms. Stead was consulted or agreed to the guardianship." In In the Matter of S.H., 987 P.2d 735, 741 (1999), the Alaska Supreme Court held that "If the requirements of Rule 1.14 are met, a lawyer may seek a guardian to protect the client's interests despite the client's disapproval."

³⁰RCW Ch. 11.88. See RCW 11.88.040 Notice of Hearing ["personally served on the alleged incapacitated person"].

³¹RCW Ch. 74.34

³²Comment 1 to ABA Rule 1.14 reminds us that "a client lacking legal competence often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. Furthermore, to an increasing extent of the law recognizes intermediate degrees of competence." ABA Standing Committee on Ethics and Professional

lawyer or petitioners. The lawyer need only have a reasonable belief “that the client cannot adequately act in the client’s own interest” whether or not the impairment is “because of minority, mental disability *or for some other reason.*” RPC 1.13(a).

The record fails to identify what secrets or confidences³³

Eugster allegedly disclosed to Marion’s disadvantage given RPC

Responsibility, Formal Opinion 96-404 (August 2, 1996) at fn. 3. For example, Alaska law does not require that a person be altogether incompetent in all aspects of life to have a court appointed conservator. As the Court stated In the Matter of S.H., 987 P.2d 735, 740 (1999), “*And it is counter-intuitive to think that an ability to function at some level, perhaps around the house, or while shopping or driving, would require denial of a conservatorship for more complex matters. We think the need for a conservator must be assessed in context of the person’s incapacity and the specific matters for which management or protection may be required.*” Here, Stead had not and did not handle her own finances.

³³RPC 1.14 comment 8 states: “Disclosure of the client’s diminished capacity could adversely affect the client’s interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. Information relating to the representation is protected by Rule 1.6. Therefore, unless authorized to do so, the lawyer may not disclose such information.”³³ When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client’s interests before discussing matters related to the client. The lawyer’s position in such cases is an unavoidably difficult one.”

1.13's explicit authorization to pursue a guardianship which is also authorized for "any person" to pursue under the guardianship statute.³⁴ Marion's financial affairs and mental state were well known by and obvious to numerous people, including Roger, her only son and successor Attorney-in-Fact and trustee, her financial advisor and others. Marion gave informed consent³⁵ in writing to have Roger designed as successor trustee, attorney-in-fact and administrator of her estate. Consequently, any disclosure by Eugster would have been necessary and impliedly authorized by Marion to carry out her wishes.³⁶

Pursuant to RPC 1.13 and state law, Eugster reasonably believed Marion could not adequately act in her own best interests.³⁷ He filed the petition for guardianship for her benefit.

³⁴RCW 11.88.030-.040.

³⁵RPC 1.8(3)

³⁶RPC 1.6(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation.

³⁷Count 5 and 8 [RPC 1.15(d); 3.4 and CR 11] FOF & COL at pg. 25

Under RPC 1.13 and state law, the only precondition placed on a lawyer who seeks the appointment of a guardian for a client (or anyone else) is the lawyer's sole, subjective and reasonable belief that the person is impaired, for whatever the reason, and cannot adequately act in his or her best interests. Here, the record shows that Marion had "psychologic conditions with major depressive disorder" for which she took various medications and was in counseling.³⁸ She was delusional to the effect that her only son was taking advantage of her estate. She increasingly did not understand her estate plan, especially the purpose and limitations on the irrevocable special need trust.

Eugster came to view Marion as a vulnerable adult at risk of serious financial harm.³⁹ In hindsight, Eugster's concerns were

³⁸Ex. 62. It is unknown if Dr. Shannon was aware of or quarried Marion regarding her knowledge of her estate plan and the limits on the testamentary trust.

³⁹Washington Vulnerable Adult Act: RCW Ch. 74.34.020 (6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage." [Emphasis added]. RCW

justified. After Marion hired Braff (grievant) and Trefts, her estate was paying thousands of dollars for management fees which where heretofore provided for free by her son, Roger. The carefully crafted estate plan she and her husband John established with their prior attorney, Hellenthal, naming their granddaughter, Emilie, as beneficiary was completely supplanted by a will Marion signed two days before her death naming Roger's ex-wife and an animal shelter as beneficiaries.⁴⁰

The Bar claims Eugster “violated Civil Rule 11 and/or an obligation under the rules of a tribunal, and therefore, violated RPC 3.4(c)”⁴¹ by filing the petition for guardianship “without

74.34.035 (1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.

⁴⁰The Hearing Officer found that: “The association elicited testimony that Roger is now contesting the will his mother signed two days before her death. Given the size of the estate, Roger’s resources, his daughter’s interests, and the fact that because of the actions of Respondent Eugster, he had had no contact with his mother for two years prior to her death, this seems to be a prudent action to protect his daughter. CP 59-60 [Emphasis added].

⁴¹A lawyer shall not ... knowingly disobey an obligation under the rules of a tribunal.

making a reasonable inquiry about Ms. Stead's mental condition."⁴² However, no such claim was made in the guardianship proceeding nor were there any collateral claims of abuse of process or malicious civil prosecution.

It is undisputed Marion suffered from a "major depressive disorder" for which she was on a variety of medications. Now she was involving third parties in her affairs when Eugster was otherwise satisfactorily performing his duties. Those managing her financial affairs in recent months were, first her son, Roger, then Eugster and finally Northwest Trustee and Management Services. Eugster was mindful of all of this and reasonably questioned the competency of Marion, as reflected in the guardianship petition. There was no other practical method of protecting the client's interest than to file for a guardianship.⁴³ To

⁴²FOF & COL at page 2, Count 8 and 26

⁴³See Restatement of the Law Governing Lawyers by ALI (1985) Vol. 1, sec. 24(e) ["When a client's diminished capacity is severe and no other practical method of protecting the client's best interest is available, a lawyer may

claim his filing violated CR 11 when the court did not make that determination is absurd and violates due process.

By following RPC 1.13 and state law⁴⁴, Eugster did not engage in conduct prejudicial to the administration of justice by commencing a guardianship action for the benefit of Marion.⁴⁵

RPC 1.9(a) provides:

A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

The Bar simplistically presumes a guardianship is “against a former client”⁴⁶ if it is not granted but, presumably, “for the client” and proper if it is! This is contrary to the legislative intent for the

petition an appointment of a guardian or other representative to make decision for the client.”]

⁴⁴RCW 11.88.030(1) provides that “No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis.” Hence, any action against Eugster for filing the petition would arguably violate the state’s anti-SLAPP law which grants immunity from civil liability for claims based upon communications to appropriate governmental bodies. RCW 4.24.510

⁴⁵Count 9 [RPC 8.4(d)] “It is professional misconduct for a lawyer to ... engage in conduct that is prejudicial to the administration of justice.” This must be read in light of RPC 1.13.

⁴⁶Petition at 5, 7 and 9 [referring to “client” and “former client”].

guardianship law which is to help individuals “to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs.” The Bar’s erroneous interpretation of the law hinges on a very selective and retrospective view of the facts. It sets up a very unfair double standard by which to judge an attorney’s performance. RPC 1.13 and state law, on the other hand, do not judge a lawyer’s action by such perfect hindsight but rather by what the lawyer “reasonably believes” at the time. The guardianship petition simply gets the ball rolling and it is then up to the court to decide.⁴⁷ Here, had the court found Stead incompetent, the Bar’s action would be eviscerated since it is premised on Eugster filing “a baseless guardianship action against the client....”⁴⁸

Furthermore, Eugster was not “representing” anyone in the guardianship action, let alone representing someone “against”

⁴⁷RPC 1.13; See, e.g. *In re Mignerey’s Guardianship*, 11 Wn.2d 42, 118 P.2d 440 (1941).

⁴⁸Petition at 9.

Marion (whether or not she is a current or former client). This court totally misunderstands the unique nature of guardianship, which is for the benefit of the prospective ward and not the reverse. Eugster and Roger were co-petitioners for the benefit of Marion, merely placing the matter before the court to determine if her impairment had devolved into incompetency thereby throwing into doubt her capacity to hire new counsel, revoke the DPAs, amend trusts, etc. – all of which had suddenly and recently arisen over a very short period of time. And of course RPC 1.13 and state law explicitly authorized Eugster to so petition.

Eugster's interests in joining Roger in filing the guardianship action⁴⁹ were not "materially adverse" to those of Marion. If so, any guardianship action would be potentially

⁴⁹This is not like "a lawyer who has represented a business person and learned extensive private financial information about that person then representing that person's spouse in seeking a divorce." [RPC 1.9 Comment 3]. Roger was not only her only son but he was a trustee of her Living Trust which had not been revoked at the time the Guardianship petition was filed. See Ex. 55 [Letter from Trefts to Marion dated Oct. 8 stating she had resigned as trustee of her revocable trust and named Trefts as her successor.] The Guardianship was filed on September 27, 2004.

unethical. Eugster and Roger believed a guardianship was in Marion's best interests to protect her from financial harm.⁵⁰ Eugster reasonably believed that she had diminished capacity and was at risk of substantial financial harm.⁵¹ Based on his professional judgment and ethical duty under RPC 1.13 and state law, Eugster petitioned with Roger for a guardianship. At the time the guardianship action was commenced, Eugster and Roger remained trustees on Marion's Living Trust and, as such, owed a separate fiduciary and contractual duty to protect Marion and her estate.

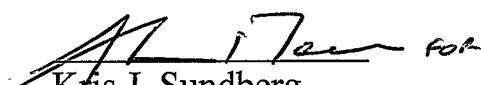
⁵⁰This includes attorneys Andrew Braff (grievant) and Stephen Trefts, d.b.a. Northwest Trustee and Management Services. See, e.g., Pa. Ethics Op. 88-72 (1988) (lawyer who fears client's relatives will take advantage of client may seek appointment of guardian if lawyer believes client unable to act in own interest.)

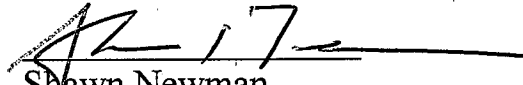
⁵¹The Bar argues that because Eugster stated he had a right to file the guardianship petition and that he would do it again "to fulfill his duties and to protect his client," he should be suspended. Petition at 9. Despite RPC 1.13 and the statutory immunity given to those who file guardianships RCW 11.88.030, while his appeal is pending Eugster "will agree not to take any action with regard to any person known or unknown to me know under the guardianship laws of the state of Washington or the Vulnerable Adults Statutes of Washington unless and until I have approval to do so from this Court or the Bar Association or a person supervising my conduct." Eugster Dec. at 4.

CONCLUSION:

Eugster should not be suspended. The conduct at issue, filing a guardianship action, is authorized by RPC 1.13 and protected by state law. Even if that was not the case, there is insufficient evidence that Eugster's continued practice of law will be detrimental to the integrity and standing of the bar and the administration of justice, or be contrary to the public interest.

Date 5/8/08


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Case No.: 200,566-7

SUPREME COURT OF THE STATE OF WASHINGTON

**In re Stephen K. Eugster,
an Attorney at Law
WSBA No. 2003**

**APPENDIX A:
STATEMENT OF THE CASE FROM
OPENING BRIEF OF APPELLANT
[Case No.: 200,568-3]**

IV. Statement of the Case

A. Initial status, understanding and objectives when Marion met Eugster in 2004.

In late June 2004 Marion Stead, an 87 year old widow¹ who had recently moved into an assisted living facility, contacted Eugster regarding concerns she had about her estate and financial affairs.² She was upset³ and not speaking to her only child, Roger Samuels,⁴ who was up to that point managing her financial affairs for free. She “was very upset over Roger and wanted him to no longer be in charge of her affairs.”⁵ Marion believed by “removing Roger from control of her affairs she could rekindle her relationship with him.”⁶ However,

¹Her husband, John Stead, passed away on February 4, 2004. Hearing TR 260:25
²TR 406.

³Marion was troubled about being in an assisted living facility (Parkview). She was dismayed that her only son, Roger Samuels, had not been visiting her enough and that he might be going to Europe in the next few days without visiting her before doing so. TR 410. According to Roger, “I thought my mother had flipped ... I realized she was under extreme emotional pressure. John was visibly wasting away, and she was extremely agitated about his condition, and that’s why she was in such a near hysterical state.” Hearing TR 259:8-12.

⁴The Bar Complaint states: “During the summer of 2004, Respondent became aware that Ms. Stead’s relationship with Mr. Roger Samuels was strained to the point that Ms. Stead and Ms. Roger Samuels were not speaking to each other.” Complaint at 5:17-19. These conflicts with FOF 2.26 which states: “The guardianship action destroyed what was left of Ms. Stead’s relationship with her son, Roger. They last spoke after a guardianship hearing.”

⁵FOF 2.18

⁶See FOF 2.23; See also FOF 2.21 for Count 1.

she did not want to permanently remove him from all duties if Eugster found he was being a good, dutiful son.⁷

Marion was confused about her rights under a complex estate plan⁸ created in October 2003 by attorney David Hellenthal.⁹ Under that plan, Marion and her then-living husband, John, named Roger as personal representative of their estates,¹⁰ Attorney-in-Fact under their durable powers of attorney for property management¹¹ and trustee of a Supplemental Needs Trust for Surviving Spouse.¹² The purpose of the trust was preservation of estate assets for the surviving spouse

⁷The reason why Marion agreed to have Roger named as successor to Eugster on certain estate documents was the idea that Roger would be allowed to take over again on Eugster's finding that Roger was acting appropriately. See, Ex. 30 & 52 [Eugster letter to Marion (8/13/04)]

⁸Before contacting Eugster, Mr. and Mrs. Stead contacted attorney Summer Stahl regarding her dissatisfaction with the plan. FOF 2.14 "Ms. Stahl's testimony that Ms. Stead said she didn't want the trust was reiterated by Mr. Eugster, and several persons interviewed by the Guardian ad Litem." FOF 2.14.1

⁹Hellenthal was a specialist in "elder law" who could provide "guidance in financial planning for long term care, especially asset preservation within medical Assistance limitations." See Ex. 15. Note, the FOF incorrectly states that Eugster prepared these new documents. FOF 2.13

¹⁰Ex. 2.1

¹¹Ex. 2 at para. 2: "My Attorney-in-Fact shall have all the powers of an absolute owner over my assets and liabilities...." These includes authority to sell real and personal property, deal with financial/securities/brokerage accounts and add/remove property from any trust created by her or for her benefit.

¹²Also referred to as the John Stead Trust or simply as the testamentary trust. Ex. 55. The trust was funded from the spouse's 50% share of the marital property and became irrevocable upon the death of the first spouse. Ex. 2.1, p. 4, para. C This left the surviving spouse (Marion) with control of the remaining 50% of the community estate.

within medical assistance limitations.¹³ The residual beneficiary of their estate was their only grandchild (Emilie), Roger's daughter.¹⁴

Roger was independently financially secure and provided his services as Attorney-in-Fact and trustee free of charge.¹⁵ As Trustee, Roger had "absolute discretion" to make or withhold payments under the Testamentary Supplemental Needs Trust created by John's will, including providing Marion an allowance so long as it did not disqualify her from any other assistance.¹⁶ Roger was handling all of Marion's bills,¹⁷ including caring for her sick dog.¹⁸

B. Eugster's familiarity with the Stead family and Marion's circumstances.

¹³Ex. 16: Correspondence from Roger to Eugster regarding his parents changing their estate plan.

¹⁴See Last Will, Ex. 2.1 at p. 10 [Trust for Emilie Sammons]. John and Marion's immediate family consisted of her son, Roger and her granddaughter, Emilie Sammons. Ex. 15 [Marion Stead Will].

¹⁵Under her Durable Power of Attorney for Property, Roger, as her Attorney-in-Fact, was "entitled to reasonable compensation for all services rendered on my behalf, including care management...." Ex. 2, para. 9 According to FOF 2.12, "Roger worked in hospitals until an inheritance from his father's family made working for a living unnecessary."

¹⁶Ex. 3, p. 5. Under the trust, Roger had "all powers granted to Trustees under the Washington Trust Act." Id., at 8.

¹⁷FOF 2.16. The Special Needs Trust provided for early termination "in the event of a lawful determination by a court or agency of competent authority that Trust income or principal is liable for basic maintenance...." Ex. 3, p. 7.

¹⁸Ex. 29; Hearing TR 263-264 [The dog had a "large bladder tumor" and was incontinent.]

Eugster, who was an old acquainted with the family,¹⁹ agreed to look into her estate planning and financial affairs. However, at the time Marion contacted Eugster in late June 2004, her circumstances had dramatically changed. She had been a widow for five months after her 54 year marriage, she had left her home of over 20 years for an assisted living center²⁰ and she was just two months shy of her 88th birthday.”²¹ She is described as “an elderly, grieving widow suffering from depression and physical health problems who had a difficult relationship with her only son.”²² That relationship is described as “complicated and strained,”²³ “love/hate”²⁴ and a “very dysfunctional family.”²⁵

C. Eugster’s plan to accomplish Marion’s objectives.

¹⁹Eugster previously prepared estate planning documents for Mr. & Mrs. Stead and represented Roger in his divorce. FOF 2.12-2.13 [Ex. 7-11]

²⁰Marion was moved into the assisted living center called Parkview in Colville in March, 2004, one month after her husband, John, died. Her only son, Roger, was trustee of the Supplemental Needs Trust (Hellenthal documents). Roger said “his mother had once been capable of handling household bills, but did not believe she could still do it. He had been filling out checks, putting the postage on the envelopes, and had arranged for as many automatic monthly payments as possible.” FOF 2.16

²¹FOF 2.18

²²FOF 3.14 regarding Aggravating and Mitigating Factors.

²³FOF 2.23

²⁴Marion was dismayed that Roger had not been visiting her enough at the assisted living facility (Parkview) and that he might be going to Europe in the next few days without visiting her before doing so. TR 410.

²⁵FOF and COL at 31

Eugster sought to work with Marion and to develop a plan where her concerns could be addressed and her affairs could be put into order also taking into account her concern about her son, Roger, including whether or not there was any legitimate basis for her concerns.²⁶ To protect Marion consistent with the existing testamentary trust and consistent with her desire that Roger *not* control her financial affairs until at least Eugster could assure her of Roger's suitability to serve in various capacities, Eugster developed an estate plan for those matters under Marion's control²⁷ which included a Durable Power of Attorney,²⁸ Durable Power of Attorney for Health Care,²⁹ Revocable Living Trust³⁰ and a Pour-Over Will.³¹ Eugster did not and could not (absent a court order) change the irrevocable Special Needs Trust established for her in her late husband John's will.³²

²⁶FOF 2.20; RPC 1.13(a)

²⁷The family residence had been deeded entirely to Marion from her husband John's Probate Estate. Ex. 130

²⁸Ex. 37

²⁹Ex. 34

³⁰Ex. 36

³¹Ex. 35. The estate plan developed by Eugster for Marion did not jeopardize the estate plan that Marion had already entered into with her deceased husband John with attorney Hellenthal in 2003.

³²Hellenthal Documents, Ex. 12 & 20.

Marion wanted Eugster to serve as successor trustee with respect of her Revocable Living Trust,³³ and as her Attorney-in-Fact for her Durable Power of Attorney and Health Care Power of Attorney.³⁴ Marion also wanted Roger to serve as a successor if Eugster resigned or otherwise failed or ceased to serve in any of such capacities. The desire to have Eugster serve first was so he could look into the conduct of Roger to ensure that all was being taken care of as it should be taken care of.³⁵ Eugster reluctantly consented to doing so after advising her of his concerns in a letter to Marion.³⁶ The record reflects that Eugster diligently performed his duties and kept in communication with Marion, Roger, her bank, her investment advisor,³⁷ Paul Buxton at Edward Jones, and others.³⁸

D. Status of the family home.

³³Marion was trustee.

³⁴FOF 2.21

³⁵This answers FOF 2.21 which states: "Ms. Stead did not testify during this proceeding, so why she would agree to have Roger as successor remains a mystery."

³⁶Ex. 33. In the letter, Eugster also pointed out concern for her intended beneficiaries. Further, Eugster told her he would work for \$125 per hour, a rate substantially below his normal billing rate.

³⁷Paul Buxton at Edward Jones

³⁸Ex. 4 et seq. This includes numerous letters, telephone calls, copies of bills received and bills paid. See, e.g. Ex. 36. "Others" would include contact with a local estate sale person, Maryann Duffy, to conduct the sale of the contents of the residence so Stead could put the home on the market.

After effecting Marion's new estate plan, Eugster continued to investigate her affairs, assets, bills payments and other matters including insurance on her residence. During the course of the probate of John Stead's estate by attorney David Hellenthal, the family residence was quit-claimed to Marion. The residence was then placed into Marion's living trust which she signed in July 2004.³⁹ Eugster was working with her and a local estate agent, Maryann Duffy,⁴⁰ in preparing to sell the personal property in the house that she did not wish to keep or distribute and then to sell the house itself.

E. Status of probate of John Stead's estate and the insurance issue.

Eugster commenced more investigation regarding the probate of the estate of John Stead. That probate was being handled by attorney David Hellenthal, not Eugster.⁴¹ Eugster understood that the estate had been partially distributed – some assets to the testamentary trust (i.e. the irrevocable Special Needs Trust for Marion), some assets to her. These assets consisted of accounts at Paul Buxton's brokerage firm (Edward Jones), payments coming from an annuity which were being used to pay the monthly cost of the Parkview

³⁹Ex. 16 [Living Trust of Marion Stead]; Ex. 56 Braff Declaration and attached exhibits, including Quit Claim Deed from Roger, a Personal Representative of the Estate of John Stead, to Marion, as Trustee of her Living Trust.

⁴⁰Ex. 30

⁴¹Ex. 21

(assisted living) residence, bank accounts and the residence which, as previously mentioned, had been quit-claimed to Marion and then placed in her Living Trust. At that time, Eugster did not know about any misapplied or unaccounted for insurance proceeds or any misallocated assets. At that time he understood that all the assets had been characterized as community property but that they did not pass under a community property agreement. The directions to Buxton from Hellenthal confirmed his understanding. Eugster did not know of concerns about the Hellenthal directions as to the division of property from John's estate.⁴²

Buxton of Edward Jones had all of the assets of John's probate estate under his control except for some stock in a company that John had worked for previously. Buxton talked freely about the estate and the assets and the division of the estate assets. Nothing was communicated to Eugster by Buxton that there was anything amiss regarding the funds moving from the estate to Marion. The probate had not been completed as far as Eugster then knew. All of the funding issues and the charges against the estate for expenses and the

⁴²Ex. 131

allocations as to the funds going to the trust and the funds confirmed to Marion Stead had yet to be resolved by Hellenthal.

Marion expressed concern to Eugster about “what assets had been used to fund the trust and her belief that there had been errors.”⁴³ Eugster met with Buxton about her concerns.⁴⁴ Later, the attorney Marion hired after Eugster, “Mr. Braff, reviewed the trust funding and determined the insurance policy that designated Ms. Stead the beneficiary was improperly in the trust, as were two other assets.”⁴⁵ The trust refunded \$129,000 to \$135,000 to Marion in June of 2005.

The Hearings Officer ultimately concluded that “Who was responsible for these errors was not clear from the evidence presented.”⁴⁶

F. Enter Attorneys Braff, Trefts and Northwest Trustee & Management Services.

After just barely more than two months of working for her, Eugster wrote Marion on September 1, 2004, regarding various bills,

⁴³FOF 2.22

⁴⁴Id.

⁴⁵Id. Note, Trefts and Braff sought re-division of the estate after Roger declined to pay Trefts \$2,000 per month from the irrevocable special needs trust set up by John’s will. TR 60: 19; See Ex. 55, Letter to Roger from Trefts (Oct. 8, 2004). See discussion *infra*.

⁴⁶Id. Obviously this inconclusive finding cannot justify or support any disciplinary action against Eugster.

inquiring about the house and suggesting a meeting with Roger.⁴⁷

Instead of responding, Marion apparently retained attorney Andrew Braff on or about September 7.⁴⁸ Although Braff acknowledged that Roger was what Eugster described him as, a dutiful and honest son,⁴⁹ he immediately prepared and arranged for attorney Stephen Trefts, d.b.a. Northwest Trustee and Management Services, to serve as her new paid Attorney-in-Fact.⁵⁰ Braff had worked with Trefts in the past.⁵¹ According to Braff's Durable General Power of Attorney,⁵² Trefts d.b.a. Northwest Trustee and Management Services was entitled to reimbursement for all costs and expenses and "shall be entitled to receive at least annually, without court approval, reasonable compensation for services performed on the principal's behalf."⁵³

⁴⁷Ex. 36

⁴⁸Ex. 54 [Affidavit of Marion R. Stead]

⁴⁹TR 92 - 93 in the letter of August 24, 2004 (Ex. 52)

⁵⁰Ex. 37-39

⁵¹TR 80:20.

⁵²Ex. 39

⁵³Emphasis added. This Power of Attorney differs from Marion's prior Power of Attorney prepared by Hellenthal which has a paragraph specifically entitled "compensation." Ex. 21 para. 9. Information about compensation and fees in the Braff document is not obviously identified in any caption or section of the document but buried in two different paragraphs entitled "Accounting" and "Acknowledgement."

G. Eugster's concerns and the need for guardianship to protect Marion.⁵⁴

Eugster believed these attorneys (Braff and Trefts) importuned upon Marion and enabled, encouraged and facilitated her to pursue a plan for her affairs and her estate which contravened the plan she and her husband had put in place with attorney Hellenthal, including the irrevocable Special Needs Trust.⁵⁵ They importuned upon her in securing their services for hire including the day-to-day management of assets and payment of expenses performed by Trefts d.b.a. Northwest Trustee and Management Services. They improperly attempted to get Roger, as trustee of John Stead's Testamentary trust to pay \$2,000 per month from those irrevocable trust assets to them for "one-half of her support."⁵⁶ This was contrary to the irrevocable supplemental needs trust established by John and Marion with attorney Hellenthal. When Roger declined to pay Trefts, Braff pursued efforts to correct a division of the marital estate between John

⁵⁴See Eugster's testimony before the Board on 9/21/07 at TR 10 et seq. Eugster understood that Marion did not want Roger out of the picture if he was a loyal son. She was angry at Roger because he had not recently come to visit her and he was about to leave for a European vacation.

⁵⁵TR 395

⁵⁶TR 60: 19; See Ex. 55, Letter to Roger from Trefts (Oct. 8, 2004) stating: "At this time, our estimate is that one-half of her support would be approximately \$2,000.00 per month. As the trustee of the John Stead Trust, we are asking that you send a check to us on a monthly basis for this amount. We will then use that check, along with her other funds, to pay for her needs."

Stead's testamentary trust and Marian which was not the division the couple had tried to accomplish in the Hellenthal Plan.⁵⁷

Two days before her death in November 2006, Marion executed a new will.⁵⁸ Rather than leaving her estate to her only grandchild per the Hellenthal and all previous plans, Marion left the bulk to Roger's ex-wife and an animal shelter. The estate is now in litigation.⁵⁹

Based on his observations and professional judgment practicing law for over 30 years,⁶⁰ Eugster grew to believe Marion, a vulnerable adult,⁶¹ increasingly was not able to manage or understand her financial affairs, including the terms of her late husband's will and the testamentary trust.⁶² Eugster's impressions were confirmed by Marion's conduct, including: her desire to change or contest her late husband's will,⁶³ her constant contacts with her stock broker, Paul

⁵⁷TR 79:12.

⁵⁸See FOF & COL Recommendation at pg. 30

⁵⁹TR 641. The Bar blames Eugster for this litigation and for wrecking the lives and relationship with Marion and her son. FOF 2.45; pg. 27.

⁶⁰TR 762; see generally *State v. Israel*, 19 Wn. App. 773, 779, 577 P.2d 631 (1978) (acknowledging counsel's dual role as representative of client and officer of the court, and holding that counsel's opinion about competency is entitled to weight).

⁶¹See, Washington Vulnerable Adult Statutes, RCW Ch. 74.34; see also fn 26, *surpa*, RPC 1.13, Client Under A Disability (version in effect in 2004).

⁶²See, Ex. 30 [Letter to Marion from Eugster dated August 13, 2004 RE: Estate] "You cannot Change John's Will."

⁶³Ex. 16 and 30

Buxton,⁶⁴ her frequent, repetitive, inconsequential communications with Eugster's office,⁶⁵ her decision to sell the home and furnishings without professional assistance arranged by Eugster, her continued lack of understanding as to how her bills were being paid, her living circumstances and how her residence at the assisted living facility was being paid for under the irrevocable Special Needs Trust. She continued to make decisions without adequate consideration of her financial affairs, contrary to her estate plan and her stated objectives. This includes retaining the services of attorney Braff and Treft dba Northwest Trustee and Management Services for an unknown fee when Roger had competently managed Marion's estate consistent with her estate plan for free.

Based on these observations and his professional judgment, Eugster wrote to Braff on September 13, 2004 stating that he did not believe Marion was competent when she hired Braff and revoked Eugster's power of attorney.⁶⁶ Due to the swiftly changing circumstances, Eugster reasonably believed that a guardianship action

⁶⁴TR 210

⁶⁵See, e.g. Ex. 30.

⁶⁶There is no FOF stating that Marion was completely competent at all relevant times.

should be filed to protect Marion and test her competency.⁶⁷ Braff responded by letter dated September 15 stating that “not only is the Power of Attorney revoked, but also that your services as Ms. Stead’s attorney is (sic) terminated, and Mrs. Stead wants her files forwarded to this office.”⁶⁸ On October 5, Braff filed a motion in the guardianship action to liquidate Marion’s assets, for Roger to return all personal property and for Eugster to be prohibited from representing Roger “to the detriment of his former client.”⁶⁹

H. Guardianship Proceeding.

As interested persons, Eugster and Roger believed they had a legal,⁷⁰ ethical⁷¹ and contractual⁷² obligation to protect Marion from

⁶⁷Ex. 40

⁶⁸Ex. 42

⁶⁹This motion was entirely unnecessary. All of Marion's assets were in the revocable trust. And, the trustee (Trefts) was in control of all those assets including the house which was deeded to the trust. [See Ex. 56] The court had no jurisdiction over the trustee or the trust assets. Neither were parties to the guardianship action.

⁷⁰Washington Vulnerable Adult Act: RCW Ch. 74.34.020 (6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage. RCW 74.34.035 (1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.

⁷¹See RPC 1.13 at fn 26.

⁷²Both Eugster and Roger were named as trustees in Marion’s Living Trust.

financial harm.⁷³ Therefore, on September 27, 2004 they jointly filed a Petition for Guardianship of Person and/or Estate nominating Roger, her “natural born son,” as guardian.⁷⁴ Eugster did not represent Roger in the guardianship action.⁷⁵ State law provides that “any person” may petition for the appointment of a guardian.⁷⁶ The Petition⁷⁷ alleged that Marion was incapable of managing her person and estate and explains the “Degree of Alleged Incapacity” as follows:

Marion Stead is capable of taking care of her daily physical means, however, she is not capable of making decisions as to where she should reside. She has to live in a facility where daily care can be provided, if necessary, and where she may be looked in on from time to time to ensure that she is all right. Mrs. Stead has been prescribed many medications including anti-depressants, anti-insomnia, and anti-anxiety drugs. These medications are not monitored nor managed by staff at the Parkview Assisted Living Facility. Mrs. Stead is not capable of managing her investments or her daily expenses and monthly expenses. Further, she is at a loss

⁷³This includes attorneys Andrew Braff and Stephen Trefts, d.b.a. Northwest Trustee and Management Services.

⁷⁴Ex. 47. Both Eugster and Roger Samuels are identified as “Petitioner/Attorney.” Note, the Durable General Power of Attorney created by Braff and naming Trefts fails to identify who should be appointed as Marion’s guardian should it be necessary. See Ex. 39, p. 4 (para. 5). Compare Ex. 17: “In the event that it becomes necessary to appoint a guardian of the person and/or estate of the Principal, the Principal nominates her attorney, STEPHEN K. EUGSTER, as the guardian of her person and/or estate. If he resigns or otherwise fails or ceases to serve, the Principal nominates her son, Roger Samuels, as the guardian of her person and/or estate.”

⁷⁵FOF 2.33 “There is insufficient evidence to find Mr. Eugster represented Roger in the guardianship action.”

⁷⁶RCW 11.88.030

⁷⁷Ex. 64

to understand how these matters are taken care of. In the past few weeks, it has become apparent that Mrs. Stead has become somewhat delusional and that she believes her son Roger Samuels in somehow out to take advantage of her when this is certainly not the case.⁷⁸

Pursuant to state law, the notice that a guardianship proceeding must be “personally served upon the alleged incapacitated person....”⁷⁹ A guardian was appointed to investigate and make a report.⁸⁰ Emilie Sammons (Marion’s only grandchild) testified in favor of a guardianship and that she thought her grandmother was incompetent.⁸¹ On October 4, 2004 the guardian filed his report.⁸² That report included an opinion from Dr. Patrick Shannon, a Family Practitioner,⁸³ that Marion did not need a guardian to handle her

⁷⁸Ex. 47

⁷⁹The Hearings Officer shrilly berates Eugster for having the notice personally served. See FOF Count IX at 2.44 [Braff testifying (in what amounted to hearsay from a dead person) that Marion was “humiliated by the service.”] However, in Steven’s County, service of process in such cases is affected by the Sheriff.

⁸⁰Ex. 65 Before the investigation was completed there was a hearing regarding the sale of the house. The house was not in the guardianship proceeding because Marion’s Living Trust was not in the proceedings. The court did not have jurisdiction over the house.

⁸¹Ex. 82

⁸²Ex. 88

⁸³Patrick J. Shannon, M.D., specializes in family practice, not psychiatry. He is not a psychologist. See Ex. 85 [Medical/Psychological Report (October 12, 2004)]. Section XII of the Report asks for the “Names of persons with whom the physician/psychologist has met or spoken with regarding the patient.” Dr. Shannon fails to mention attorney Trefts who previously asked him to evaluate Marion on September 22, 2004. See and compare Affidavit of Stephen W. Trefts, Trustee of Living Trust of Marion R. Stead with Dr. Shannon’s Medical/Psychological Report. Ex. 78 [Ex. A]; Ex. 85. In the statement attached to Treft’s declaration, Dr. Shannon makes no mention of any psychologic

financial affairs noting, however, that she had “psychologic conditions with major depressive disorder” for which she took various medications and was in counseling.⁸⁴

On October 8, 2004, Trefts wrote Roger stating that Marion had resigned as trustee of her Living Trust and named Trefts as her successor trustee.⁸⁵ However, according to the terms of the Living Trust, if Marion resigned, Eugster became Trustee then Roger.⁸⁶ On October 21, 2004, Eugster declined to serve as successor trustee of Marion’s Living Trusts, ceased to serve as Attorney-In-Fact, and declined to act as guardian for Marion.⁸⁷ Mr. Trefts wrote Eugster on October 26 stating that the trust had been amended and that he was no longer a successor trustee.⁸⁸

condition, depressive disorder, or the fact she has was seeing a counselor. Given the issue was her mental health, rather than her physical health, perhaps the counselor should have submitted a report.

⁸⁴Ex. 85 (Guardianship Medical/Psychological Report at VI). “Psychologic conditions” refers to a variety of mental disorders, including severe phobias, dysrationalia, and PTSD. See Webster’s New World Medical Dictionary.

⁸⁵Ex. 55. Trefts did not attach a copy of her resignation or if one was prepared revoking any powers given to Roger. Compare Ex. 43. Under the terms of Marion’s Living Trust, Eugster was the first successor trustee with Roger as the second successor trustee.

⁸⁶Ex. 16 at p. 9 [Art. XII (A)]

⁸⁷Ex. 65 & 112. Because Marion resigned as Trustee of her Living Trust, Eugster automatically became trustee. The Trust, which is a separate entity, was not part of the guardianship proceeding.

⁸⁸Ex. 68 & 114. Although the revocation of the Power-of-Attorney was sent to Eugster, apparently the amendment to Marion’s Living Trust was not sent until after he withdrew. Ex. 43. Apparently, neither the Living Trust prepared by

On November 4, 2004, attorney Terry Williams appeared in the guardianship action for co-petitioner Roger Samuels.⁸⁹ On November 17, 2004, Eugster withdrew his petition for guardianship.⁹⁰ On February 1, 2005 by stipulation between Mr. Braff and Mr. Williams and their clients, the petition for guardianship was dismissed.⁹¹

Eugster [Ex. 16] nor the Braff amendment to that Living Trust [Ex. 43] was recorded like the Eugster Durable General Power of Attorney and Braff's amendment. Ex. 17 and 39.

⁸⁹Ex. 92

⁹⁰Ex. 94

⁹¹Ex 76.1.

Case No.: 200,566-7

SUPREME COURT OF THE STATE OF WASHINGTON

**In re Stephen K. Eugster,
an Attorney at Law
WSBA No. 2003**

APPENDIX B:

DECLARATIONS

Appendix B	Last Name	First Name	Gate # From	To
B-1	Eugster	Steve	0001	0011
B-2	Allison,	Paul J.	0012	0015
B-3	Annan,	Ned	0016	0017
B-4	Aronow,	William Fred	0018	0021
B-5	Bamberger	James A.	0022	0025
B-6	Baxter	Betty	0026	0028
B-7	Baxter,	George	0029	0033
B-8	Baxter,	Robin	0034	0036
B-9	Bodker,	Drew M.	0037	0038
B-10	Brennan	John	0039	0041
B-11	Brooks,	Michael	0042	0044
B-12	Bundy,	John	0045	0047
B-13	Burpee	Douglas, B.	0047	0050
B-14	Chester	Colby	0051	0053
B-15	Clark	Allan D.	0054	0056
B-16	Clarke,	Owen F.	0057	0062
B-17	Delay,	Joseph P.	0063	0065
B-19	Esposito	Joseph	0066	0068

B-20	Eugster,	George	0069	0071
B-21	Eugster,	Jack	0072	0074
B-22	Eugster,	Susan K.	0075	0077
B-23	Fee,	Pamela J.	0078	0081
B-24	Grimes	Christopher	0081	0084
B-25	Haley,	Jeffrey	0085	0087
B-26	Harney,	Dwayne	0088	0090
B-27	Haskell,	Stephen	0091	0094
B-28	Herak,	Donald	0095	0098
B-29	Herman	Howard	0099	0105
B-30	Hughes,	David	0106	0108
B-31	Johnson,	Richard C. Carol J.	0109	0112
B-32	Larson,	John	0113	0115
B-33	Lawson	Cynthia	0116	0118
B-34	Loudermilk,	James	0119	0121
B-35	Marthaller,	James J.	0122	0124
B-36	McCann	David F.	0125	0128
B-37	McLoed	Roy	0129	0132
B-38	McMakin,	Dian	0133	0136

B-39	Murphy,	James	0137	0140
B-40	Ostin,	Gary	0140	0144
B-41	Ritter	Daniel B.	0145	0148
B-42	Rowell,	Loring B.	0149	0152
B-43	Russman,	Irene K.	0153	0156
B-44	Sands,	Kenneth	0157	0159
B-45	Stiley	Patick	0160	0162
B-46	Sitton	John	0163	0176
B-47	Stillian,	Joni	0177	0179
B-48	Tilford,	Thomas B.	0180	0182
B-49	Wickwire,	James	0183	0192
B-50	Wolbach,	Kristine R.	0193	0196

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF STEPHEN K. EUGSTER

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
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Olympia, WA 98502-4327
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FAX 866.800.9941

I, Stephen K. Eugster, under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am more than 63 years of age and competent to be a witness in these proceedings.

2. I make the statements herein based upon my own personal knowledge.

3. I graduated from the University of Washington School of Law in 1969, I graduated 5th in my class and was member of the Order of the Coif and had been the Managing Editor of the Washington Law Review.

4. After graduation from law school my wife and I joined VISTA, Volunteers In Service to America.

5. Afer we completed our training we were assigned to Washington, D.C. and the public interest group there called the Washington Research Project, now the Children's Defense Fund.

6. In January 1970, I took my oath of attorney before

Justice William O. Douglas, Associate Justice of the United States Supreme Court, at the United States Supreme Court in Washington, D.C.

7. I have practiced law in the State of Washington since the fall of 1970 when I began work as an associate at the Seattle law firm of Davis, Wright, Todd, Riese & Jones.

8. It was at Davis Wright that I became practiced in the area of estate planning, probate, trusts, and guardianships, and powers. For four years I worked with partner Malcolm Moore, a nationally known and respected trusts and estates lawyer.

9. I have practiced in Spokane, Washington since the fall of 1977.

10. From the fall of 1970 to the present, I have practiced law in the areas of trusts and estates, estate planning, business entities, business sales and purchases, real estate, real estate development, land use, water law, real estate transactions, banking, municipal law and finance, environmental law, and

related areas.

11. I have never before been disciplined by Bar Association.

12. I have never been the subject of Bar Association disciplinary proceedings.

13. Indeed, the Washington Supreme Court trusted me and directed me to supervise the conduct of a lawyer then subject to discipline, Stephen Haskell, during the time period between the appeal of his disciplinary proceedings and the Court's final determination. I reviewed Mr. Haskell's work and billings and filed regular reports to the Bar concerning Mr. Haskell. I recall my supervisory work lasted about a year. *In re Disciplinary Proceeding Against Haskell*, 136 Wash.2d 300, 962 P.2d 813 (1998).

14. The subject of the proceedings against Stephen Haskell took place prior to the time I became associated with him. The Bar Association ordered that he be disbarred. The

Court ordered that he be suspended for two years.

15. Stephen Haskell is now practicing law in Spokane.

His suspension is over.

16. I continue to desire to do estate planning.

17. In this regard, I would be willing to subject myself to the direction of the Court in my work, to the Bar Association and/or to another lawyer such as Shawn Newman of Olympia.

18. I do not have client assets of any kind in my possession except for some residual funds in the client trust account which I have control over.

19. The trust account has about \$4,000 in it. Much of this money is represented by checks which have been sent to clients and others but which have yet to be cashed and are now stale checks. My assistant Cynthia Lawson and my accountant Kris Walbach of McDermid Mikkleson and Secrest in Spokane are in the process of completing an audit of the account to ensure that all funds are disbursed. This is ongoing and should be

completed in the next few weeks. Cynthia Lawson only works one day of the week now.

20. I will agree not to take any action with regard to any person known or unknown to me now under the guardianship laws of the state of Washington or the Vulnerable Adults Statutes of Washington unless and until I have approval to do so from this Court or the Bar Association or a person supervising my conduct.

21. I have been very active in public issues in Spokane and the State of Washington since the latter part of 1985. I continue to be publicly active. See www.steveeugster.com.

22. In the course of my career, I have frequently gone against the tide of popular sentiment: For example,

- a. *CLEAN v. State*, 130 Wn.2d 782, 928 P.2d 1054 (1996) (Mariners Stadium),
- b. *Brower v. State*, 137 Wn.2d 44, 969 P.2d 42 (1998), *cert. denied*, 526 U.S. 1088 (1999) (Seahawks Stadium),

- c. The Spokane River Park Square Cases including *Eugster v. City of Spokane*, 118 Wash.App. 383, 76 P.3d 741 (2003), *pet. rev. denied*, 151 Wash.2d 1027, 94 P.3d 959 (2004), and
- d. *Sinking Creek Water Rights Case* – *Rettkowski v. Department of Ecology*, 122 Wn.2d 219, 858 P.2d 232 (1993); *Rettkowski v. Department of Ecology*, 128 Wn.2d 508, 910 P.2d 462 (1996) (I represented cattlemen whose riparian rights were damaged and sometimes curtailed due to deep well pumping from wells in hydrological connection to the in-stream flows of Sinking Creek in Eastern Washington).

23. I was an early opponent of the legality of Spokane's River Park Square Project owned by the Cowles Family. After becoming a member of the Spokane City Council in 2000, my efforts both as a council member, lawyer and citizen were to ensure that the City of Spokane was protected in the relationship

it had entered into with the Cowles Family.

24. The cases I have taken and my public service activities have made me unpopular in certain communities, including the Spokane Bar.

25. At the present time, I have only three active clients, the Lenora Water and Sewer District in Usk, Washington, a Gold's Gym, and Tom Price, the trustee of a trust which is in the process of disposing of its assets and distributing the proceeds. The only substantial work I am doing for the District is to help in the drafting of a comprehensive plan and to help in the processing of the transfers of certain water rights.

26. I would like to be able to continue to practice, at least while my case is under consideration. I do not plan on undertaking any matters of litigation for any client, at least for the time being.

27. Given this and my very limited clientele/caseload, I don't think an interim suspension would serve any useful

purpose in terms of protecting the public while the Disciplinary Board's decision is under appeal. However, I would be willing to make any reports to the court as the court deems proper. I would be willing, within reason and matters of confidentiality, to report any major steps I might take which might be of interest to the Bar Association.


28. To support myself at present, I am working as a caretaker of two condominium buildings in downtown Spokane, managing a real estate ownership partnership, and, when the opportunity presents itself, I will drive an 18 wheel long haul truck (I obtained my Commercial Drivers License in March 2007 and multiple endorsements).

29. The Bar Association refers in a footnote in its motion to suspend me to two cases which it says establish I have a record of frivolous litigation – *Reid [and Stephen K. Eugster] v. Dalton*, 100 P.3d 349, 124 Wash.App. 113, *pet. review denied*, (2004) and *Eugster v. City of Spokane*, 156 P.3d 912,

139 Wash.App. 21 (2007). I was a pro se plaintiff in both cases. I was not acting as a lawyer for others (note in *Reid* I was the primary plaintiff and represented Kathy Reid at the trial court level, she had other counsel on appeal and I had agreed to pay her attorneys fees). Both decisions were written by Judge Dennis Sweeney of Division III. The first case had to do with the constitutionality of the Washington State Blanket Primary tested in the context of specific election conduct. The second had to do primarily with City of Spokane violation of the local government accounting act of the state of Washington. In the first case I paid the \$77,000 plus attorneys fees the court ordered me to pay. Kathy Reid paid nothing as I felt it my duty to pay such fees. In the second case the fees imposed were not requested by a party, they were simply ordered by Judge Sweeney *sua sponte*. The case was ultimately settled and thus not subject to a petition for review to this Court. The City dropped the fees and I did not file a petition for review.

30. As to each case I submit that a fresh review of Court of Appeals opinions would be useful. I respectfully submit that neither case was frivolous and indeed the orders regarding the payment of attorneys' fees were not based upon the law and the facts. Again I respectfully submit the opinions on their faces do not support the orders to pay fees.

Signed at Spokane, Washington on May 5, 2008.


STEPHEN K. EUGSTER,
WSBA#2003

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

Paul J. Allison, WSBA No. 2114

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
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Shawn Timothy Newman
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Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, Paul J. Allison, under penalty of perjury under the laws of the
state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein based upon my own

personal knowledge.

I have been personally acquainted with Steve Eugster for many years, over twenty I am sure. I have worked on business transactions in which Mr. Eugster was representing another party. I always found him to be competent, honorable and diligent in representing the interests of his client. I have never had the slightest reason to doubt his integrity.

While it is probably true that no two cases are alike, I think of two in which I have been involved which had characteristics which bear a strong resemblance to some of the aspects of the matter out of which the disciplinary proceeding against Mr. Eugster arose. In one I represented a man who was well into his nineties, who was a widower and who lived alone. His daughter had petitioned for the appointment of a guardian for him. I concluded, based on my own judgment and experience, that while she was right in getting his driver's license lifted, he had a sufficient understanding of his affairs that a guardianship was inappropriate.

Another lawyer, representing the man's daughter, obviously concluded otherwise and had the man, who soon became my client, personally served with a petition for appointment of a guardian and a notice of hearing, just as Mr. Eugster did. Distressing as it was to my client, there was no other way. It was what the statute required. The court agreed with me that my

client did not need a guardian. It might have agreed with my client's daughter and the other lawyer. I respected their judgment with which I, and the court, disagreed. It is my understanding that in Mr. Eugster's situation the petition for the appointment of a guardian was dismissed so the court never ruled on the propriety of the petition.

In another, more recent, experience I represented a vulnerable adult who had been sold an insurance product that was very expensive, generated a large commission, and was, in my opinion, totally inappropriate.

Fortunately the insurance company sided with me rather than with its agent.

In both of those situations I made judgment calls in which I evaluated my client's ability to make decisions for himself, in one case, and herself in the other. Mr. Eugster was faced with a similar situation. Based on my knowledge of him I have no doubt that he made the judgment calls that he did in what he believed to be the best interests of his client.

I know Mr. Eugster to be a man of principle. I have seen him take unpopular positions and stand by them until he was proven wrong or right. They have gone both ways.

I know that this Court is acutely aware that for a lawyer to be disbarred, if disbarment is not truly justified, is as gross a miscarriage of justice as for

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER

an Attorney at Law,

WSBA BAR No. 2003

DECLARATION OF

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I, Edgar L. Annan, under penalty of perjury under the laws of the State of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein based upon my own personal knowledge.
3. I am a member in good standing of both the Washington and Idaho State Bar Associations. I previously was an adjunct professor with Eastern Washington University teaching Washington worker's compensation. I have never been subject to any discipline by either of the State Bar Associations. I have been practicing law since 1984 in Washington and 1985 in Idaho.

4. I first became acquainted with Steve Eugster when I joined the law firm of Lukins & Annis in 1985. At that time I was an Associate and Mr. Eugster a partner of the firm. After two years, I also became an principal of the firm and interacted with Mr. Eugster as well as the other partners on a daily basis.

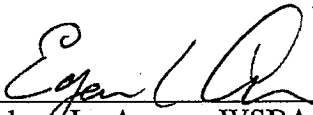
5. Mr. Eugster left Lukins & Annis in 1990 or early 1991 and set up his law office. I left Lukins & Annis in September, 1991 and rented office space from Mr. Eugster for about a year before I moved out into my own office.

6. While I have not worked with Mr. Eugster since sometime in 1992, I have maintained by association and acquaintanceship with him since that time. I feel that I can speak to Mr. Eugster's character and integrity.

7. It is my opinion that Mr. Eugster should not be suspended while his case is pending before the Supreme Court. I have always known Mr. Eugster to act with the utmost integrity. Without a doubt, he is the most ethical and honest person I have ever met and there is NO WAY that he would do any immoral, unethical or illegal acts, either as an attorney, or in his personal life.

8. I have not read the case against Mr. Eugster nor have I read his reply brief. I do not think it is necessary for me to do so in order to be able to give my unqualified support of him. In my opinion, Mr. Eugster's integrity is unimpeachable and he should be a model for all attorneys practicing in the State of Washington. I therefore strongly urge the Court consider not suspending Mr. Eugster pending the outcome of the Supreme Court appeal.

Signed at Spokane, Washington, on April 21, 2008.


Edgar L. Annan, WSBA #14594

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,
an Attorney at Law,
WSBA Bar No. 2003

DECLARATION OF

Wm. Fred Aronow, WSBA # 12077

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
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Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
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FAX 866.800.9941

I, Wm. Fred Aronow, under penalty of perjury under the laws of
the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein based upon my own

personal knowledge.

I have known Steve Eugster for over 25 years in a number of roles and circumstances—as an attorney colleague, as a litigant appearing before me during my 11 years as a Spokane County Superior Court Commissioner (1996-May 2007), and through his service as a city councilman for the City of Spokane. I have always known Steve to be unflaggingly honest and direct in all of his dealings. Throughout his career Steve has often to his financial detriment represented people and causes whose circumstances were difficult and/or unpopular, giving them a voice that would not have been otherwise heard. He carried that voice onto the Spokane City Council and often raised difficult and complex issues to shine the bright light of public scrutiny on policies and procedures that needed review. Steve was never held hostage by the phrase “that is the way we’ve always done it.”

I have never known Steve Eugster to seek personal gain beyond earning his fees. He is a well known figure in the Spokane area and statewide. I do not believe that the public needs protecting by suspending Steve pending the resolution of the grievance currently under investigation. He has been an attorney for 36 years with no

prior discipline, as I understand it. Steve has at a minimum hard-earned the right to the benefit of a doubt. With the filing and investigation of this grievance, Steve as a public figure will be under a microscope throughout the legal and general Spokane communities, which I suggest will more than adequate protection for the public.

While I have only a brief overview of the issues involved in the grievance, I can say as a charter member and former vice chair of the Washington Certified Professional Guardian Board, and one of the drafters of GR 23, and through my extensive work in the area of guardianships in Spokane County as a court commissioner, that the filing of a guardianship petition assures two things.

The first is that a trained guardian ad litem will immediately be appointed to review the case and report the circumstances to the court, and second, the court is obligated to seek the least restrictive alternative to a guardianship for the **alleged** incapacitated person.

In other words, court oversight is immediately assured by the filing of a petition for guardianship. Spokane is probably the leading county in Washington in guardianship oversight due to the extensive Guardianship Monitoring Program and the commitment

of its judicial officers to guardianship oversight.

Signed at Liberty Lake, Washington on
April 18, 2008.

A handwritten signature in black ink, appearing to read 'Wm. Fred Aronow', with a large, stylized flourish extending from the end.

Wm. Fred Aronow

Attorney at Law/Mediator, WSBA # 12077
Aronow Arbitration Mediation Services
N. 1324 Liberty Lake Road # 343
Liberty Lake, WA 99019

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

**In re STEPHEN K. EUGSTER,
an Attorney at Law,
WSBA Bar No. 2003**

DECLARATION OF

JAMES A. BAMBERGER

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
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I, James A. Bamberger, under penalty of perjury under the laws of
the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein based upon my own

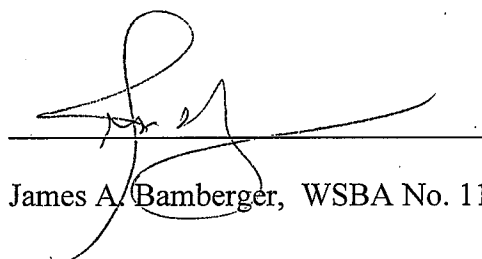
personal knowledge.

3. I have known Mr. Stephen K. Eugster for about 18 years. He served on the Board of Directors of Spokane Legal Services from about 1990 to December 31, 2005 when the program merged to form Columbia Legal Services. I have known Mr. Eugster as an attorney, board member, city councilman, public advocate and father. In the interest of full disclosure, the Court should know that during the period from 2003 through 2004, the agency with which I was employed, Columbia Legal Services, leased space from Mr. Eugster. I have had no personal contact with Mr. Eugster since I left Spokane in the spring of 2005.
4. I have no information regarding the specifics of this proceeding and make no representation regarding the substance or merits of the charges that gave rise to the recommendation that Mr. Eugster be disbarred.
5. I have observed Mr. Eugster to be a person of strong character who can be caustic and polarizing in his dealings with others, including opposing counsel. Despite this, I have known Mr. Eugster to be a person of integrity, who cares deeply about the law, the legal profession, and the professional responsibilities of attorneys

engaged in the practice of law.

Signed at Olympia, Washington on

April 17, 2008.

A handwritten signature in dark ink, appearing to read 'James A. Bamberger', is written over a horizontal line. The signature is stylized with a large loop at the end.

James A. Bamberger, WSBA No. 11337

Rex Walter
12146 SE 15th St
Bellevue, WA 98005-3822
425-747-0127

4/17/08
Re: Steve Eugster

TO WHOM IT MAY CONCERN;

This letter is written as an unconditional endorsement for the professional legal skills and integrity of Steve Eugster.

Over the past 35 years I have had a front row seat in watching Steve develop into one of the finest lawyers in the State of Washington. We practiced law together at Davis Wright in Seattle for a number of years. Then Steve moved his practice to Spokane and we stayed in close contact. Steve represented me in several matters relating to investments I had in Eastern Washington.

Again Steve is a fine lawyer — fearless — and is a champion of all ‘underdogs’.

Steve can and will serve the Bar well in being allowed to continue to practice Law during the pendency of the Bar proceedings.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Rex M Walker".

Rex M Walker

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

**DECLARATION OF
BETTY BAXTER**

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
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Shawn Timothy Newman
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FAX 866.800.9941

I, Betty Baxter, under

Penalty of perjury under the laws of the state of Washington, declare as

Follows:

1. I am over the age of eighteen and competent to be a witness
in these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at Spokane, Washington on
April 2, 2008.

Betty Baxter
Betty Baxter
(Printed Name)

Betty Baxter
8919 N. Cedar Rd.
Spokane, WA 99208
PH: 509-466-7791

Shawn Timothy Newman
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327

April 2, 2008

Subject: Case No. : 200,568-3
SUPREME COURT OF THE STATE OF WASHINGTON

Re: Stephen K. Eugster
Attorney at Law
WSBA Bar No. 2003

I am a retired senior and have lived on Five Mile Prairie in Spokane, Washington for 60 years, thanks to Steve Eugster.

I am a widow. My husband passed away in 1986. I wanted to continue living at our residence but received many offers to move from developers. I needed my piece of mind and finally found it in Steve Eugster. He advised me to go to court and petition the harassment. It was appealed and Steve won the appeal. I was finally free to live in peace. Since then Steve has been my lawyer and I am confident he will always provide sound advice. We need and depend on a man like Steve Eugster.

Steve Eugster must be allowed to continue his law practice during this hearing period. His clients, I am sure, depend on him the way I have over the years. He should be able to finish what he has started.

When this case is finished Steve Eugster should be able to continue his superior quality law practice.

Respectfully,



Betty Baxter

C: Steve Eugster – Email

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

George Baxter

**George Baxter
8919 N. Cedar Rd.
Spokane, WA 99208
PH: 509-466-7791**

I, GEORGE R. Baxter, under
penalty of perjury under the laws of the state of Washington, declare as
follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at SPOKANE, Washington on
APRIL 5, 2008.

George R. Baxter
GEORGE R. BAXTER
(Printed Name)

George Baxter
8919 N. Cedar Rd.
Spokane, WA 99208
PH: 509-466-7791

Shawn Timothy Newman
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327

April 5, 2008

Subject: Case No. : 200,568-3
SUPREME COURT OF THE STATE OF WASHINGTON

Re: Stephen K. Eugster
Attorney at Law
WSBA Bar No. 2003

I am George R. Baxter, living at 8919 N. Cedar Rd. in Spokane, WA 99208. Phone number is 509-466-7791. I am employed as a truck driver for Matheson Postal. My supervisor is John Miller, phone: 877-740-0211.

The property we live on is 4.8 acres. In the early 1990's developers started asking to include our property in their development plans. The City of Spokane rejected their proposals. Eventually, a developer wanted to plat two, five acre parcels, west of our property. The City said the developer could if they would build a road giving a second entrance to the plats. The developer proposed a road that would follow our south boundary to Cedar Road.

The City had placed building restrictions on our property because a cell tower was located in the center. My mother, Betty Baxter, said she would give them the dedication requested if the developer build the road. The developer agreed, however, then kept trying to make the road her responsibility.

The harassment lasted for seven years. I was an over the road truck driver at the time and not available. She complained so much, I hired an attorney to insulate her from their constant phone calls and knocks on the door. The first letter the developer asked her to sign would allow them to get plat approval before growth management was implemented. This did not outline the agreements as we knew them. From that point on they tried to make the road her responsibility.

I quit my job to return to Spokane and meet with the attorney she hired. He refused to listen to me or look at my materials and proceeded to brow beat her verbally while in his office. When we left the office I told her we had to get another attorney. Because the current lawyer had been recommended by a friend, my mother did not want to change. I made another appointment with the attorney. This time he listened and brought in another attorney. After the meeting they went to City Hall to verify information I had provided.

The lawyers found on file, in the City records, a falsified document on the dedication. It was written so bad that it moved the road dedication from the southwest corner of my mother's property to the northwest corner property line.

It seemed that they were going to work for her, so I went back to my job on the road with another company. For the next year they assured her everything was ok. She went to a meeting at the Five Mile Grange on the plat and her attorney was there and pointed out the road the developer would build. A week later the attorney's office called and said a lawsuit had been filed a year earlier and the court date was the next week. She called me and I told her to make an appointment with the attorney. I was working on the east coast and my company allowed me to take a load to Salt Lake City, Utah and leave the equipment there. My brother drove to Salt Lake City and picked me up.

When we arrived for the meeting with her attorney we were met by a different attorney. We were told that our attorney had just gone to work for the City of Spokane and we could not see him now. The new attorney we were talking to did not know about the case as the other attorney had been working on it. We left the office and agreed we had to get another attorney.

We were referred to an attorney that was supposed to be very good. At the meeting in his office he said he would take the case, but needed a \$10,000 retainer and another \$5,000 if it went to court. He said, you will lose the case. I WAS ASTOUNDED!!!!

We found another attorney and paid a retainer for him to look at her case. He took the case but everything we brought up he dismissed. With the new attorney, the court had rescheduled the case. I went back on the road and mother had to endure another year of turmoil.

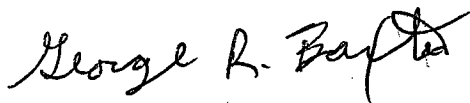
During that year she went to a meeting at the attorney's office and the developer and his attorney attended. During the meeting she wanted to know who had falsified the document. The developer admitted to her, he falsified the document in front of the City attorney. Her attorney said to not say that in front of him. Things went on as before.

I returned to Spokane the week before the court date. Mom had gone to her attorney's office and said she wanted to settle before going to trial. He was preparing a document for her to sign. Mother returned home with the unsigned document. When I read the contents of it, I said "let's get another attorney." She said "I can't take anymore, I want to settle." I said ok and told her I would pay for it, but, why not call attorney Steve Eugster. She said no and went to bed. The next morning she talked with me and said she had decided to give Mr. Eugster a call. The secretary set up an appointment for that afternoon, Friday. We met with Mr. Eugster in his office and I showed him the material's I had accumulated over the seven years. Mr. Eugster reviewed the material while we were in his office and asked numerous questions about what he read. He said he would take the case. He wanted to go to City Hall to check some things out and would get back to us.

Mr. Eugster did not ask for a retainer and when I offered to give him a retainer he said, "I don't need it." We went to court the next week and Mr. Eugster Successfully defended my mother's case.

Involved in the local community of Spokane, Mr. Eugster's name appeared in the local papers. Lucky for us, he made himself available on short notice. We continue to need Steve Eugster as he has shown he is an advocate for the local populous. By experience, I found there are not many around.

Respectfully,

A handwritten signature in cursive script that reads "George R. Baxter". The signature is written in dark ink and is positioned below the word "Respectfully,".

George Baxter

C: Steve Eugster – Email

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

**DECLARATION OF
ROBIN BAXTER**

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, ROBIN BAXTER, under

Penalty of perjury under the laws of the state of Washington, declare as

Follows:

1. I am over the age of eighteen and competent to be a witness
in these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at SPOKANE, Washington on

APRIL 2, 2008.

Robin Baxter
ROBIN BAXTER
(Printed Name)

Robin Baxter
8919 N. Cedar Rd.
Spokane, WA 99208
PH: 509-466-7791

Shawn Timothy Newman
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327

April 2, 2008

Subject: Case No. : 200,568-3
SUPREME COURT OF THE STATE OF WASHINGTON

Re: Stephen K. Eugster
Attorney at Law
WSBA Bar No. 2003

My name is Robin Baxter. I work through DSHS as a home health care provider.

I have known Mr. Eugster for several years. He has represented my mother for many years and is an exceptional lawyer. I know Mr. Eugster to be diligent, fair and extremely respectful. Mr. Eugster's adherence to a code of moral value is like no other. His advice is sound. He demonstrates a deep caring for his clients and their rights. I would trust Mr. Eugster in any legal matter that arose.

The "People" need someone like Mr. Eugster to represent them. He is only "out for" the best interest of his clients. In Mr. Eugster's career, he has never been challenged as he is now. It is obvious Mr. Eugster has not disappointed a client or has been out for "his own interest" over a client's best interest. Mr. Eugster should be able to continue his practice while continuing to prove his innocence. Mr. Eugster's past actions speak volumes for his career.

Not only is Mr. Eugster an exemplary lawyer, he is also a true friend.

Respectfully,



Robin Baxter

C: Steve Eugster – Email

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

DREW M. BODKER

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, Drew M. Bodker, under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein based upon my own personal knowledge.

3. I am a licensed attorney in the State of Washington, having practiced in Spokane, Washington since I was admitted to the Bar in 1976. I have written this Declaration for the purpose of opposing the immediate suspension of Steven K. Eugster from the practice of law pending his full hearing before the Supreme Court in the above-referenced case. I have had the opportunity to work on a few cases with Mr. Eugster over the years and I have closed some real estate transactions in which he was involved. I am not fully conversant with all of the facts in the case before the Court, but I believe it would be an injustice if he was suspended from the practice of law prior to the time that he has the opportunity to have his case heard by the Court. It seems patently unfair in this situation to immediately suspend Mr. Eugster because I do not see that there is a risk to society as would otherwise be the case in other types of situations, such as where the attorney was accused of taking funds from a trust account or that type of matter.

Although there have been times when I disagree very strongly with the positions taken by Mr. Eugster on certain cases or matters, I believe he is a man of integrity, honesty, and strong principles. Mr. Eugster should not have his license to practice law suspended before he "has his day in court".

Signed at Spokane, Washington on April 29, 2008.



Drew M. Bodker – WSBA #6714

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF JOHN BRENNAN

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

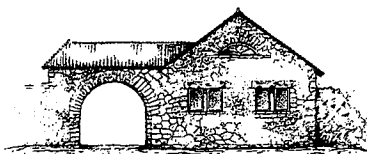
I, John Brennan, under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein and in the attachment hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this reference

Signed at Spokane, Washington on March 31, 2008.



JOHN BRENNAN



MARYCLIFF
INSTITUTE

Shawn Timothy Newman
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327

March 31, 2008

Re: Stephen K. Eugster

Dear Mr. Newman,

My name is John James Brennan. I reside at 2304 W 11th Avenue in Spokane, Washington.

Currently I work at Marycliff Institute. I have been a certified mental health counselor for over 40 years. I have been practicing in Spokane since 1972 and have been licensed in Washington State since the inception of the licensing process.

I am a friend of Stephen K. Eugster and have known him for more than 25 years.

When I learned that Steve was being charged with being unethical, I was shocked that anyone at anytime would consider Mr. Eugster unethical. This man is the personification of ethics! Several years ago, I offered to copy a \$5 computer program for him but he declined, stating that it would not be legal! I also know many of Steve's friends, fellow attorneys and acquaintances and they have unanimously expressed disbelief that Steve would be charged with being unethical.

When one knows a man as long as I have known Steve, one readily sees the truth of a basic psychological tenet: the best predictor of future behavior is a person's history. Believe me, Stephen Eugster has an exemplary history of honesty, impeccable ethics and care for the down-trodden. He has unselfishly given his time and energy to causes that demonstrate his love and respect of the law. His willingness to work *pro bono* is beyond remarkable.

In my opinion, the Washington State Bar Association can only benefit from allowing Steve to continue practicing law. I think these charges are misguided and if there was any fault on his part, it would certainly not be ethics nor the undue pursuit of monetary personal gain.

In summary, please allow Stephen Eugster to continue the practice of law until this matter is settled.

Sincerely,

John J. Brennan

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

**DECLARATION OF
MICHAEL BROOKS**

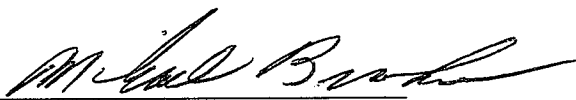
Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, MICHAEL BROOKS, under
penalty of perjury under the laws of the state of Washington, declare as
follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at SPOKANE, Washington on
9-2-, 2008.


MICHAEL BROOKS
(Printed Name)

MICHAEL BROOKS
423 West First Avenue, Suite 120
Spokane, WA 99201-3700

April 2, 2008

Washington State Bar Association
Office of Disciplinary Action

To Whom It May Concern:

I am a retired and disabled Hospice CEO. I served in that capacity for the last twenty-five years.

I met Mr. Steve Eugster while we were seeking temporary housing while our condo was being constructed.

Mr. Eugster has provided us an apartment in one of his buildings and is currently our landlord. He has provided in a timely manner all information and documents I have requested, both as they relate to our tenant/landlord relationship, as well as president of the homeowners' association of which I will be a member following completion of our condo.

Through this relationship he has continually demonstrated professionalism and honesty. I have personally seen his interactions with others in the building and I am fully confident he is a man of high moral and ethical standards.

For this, and other reasons, I believe Mr. Eugster should have the opportunity to continue as an active member of the Washington Bar Association.

Yours truly,



Michael Brooks

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

**DECLARATION OF
M. JOHN BUNDY**

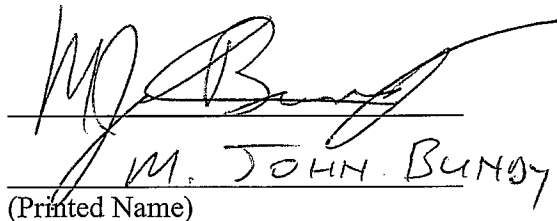
Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, M. JOHN BUNDY, under
penalty of perjury under the laws of the state of Washington, declare as
follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at Seattle, Washington on
April 2, 2008.


M. JOHN BUNDY
(Printed Name)

M. JOHN BUNDY
2520 MONTAVISTA PL W
SEATTLE, WA 98199
WSBA 4339

02 April 2008

TO WHOM IT MAY CONCERN:

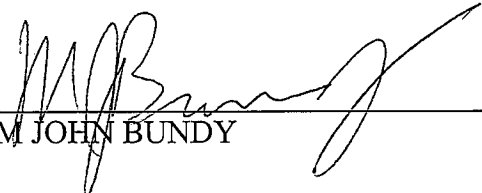
Re: STEPHEN K. EUGSTER, WSBA 2003

I joined Garvey, Schubert & Barer in Seattle as an associate attorney upon graduation from the University Washington School of Law in 1969. The firm was at that time named Houger, Garvey & Schubert. I became a Principal of the firm in 1973 and practiced law with GSB until 1993. In 1993, I joined Glacier Fish Company as its President and serve in that capacity still. My office is at 1200 Westlake N #900, Seattle 98109. Glacier owns and operates four catcher/processors that operate primarily in the Bering Sea cod and pollock fisheries. We employ approximately 250 people. We are the major supplier of pollock to Gorton's that used our product for MacDonald Fish sandwiches. We also export seafood products to Asia, primarily Japan and Korea, and Europe.

I am one of three voting members from Washington State on the North Pacific Fisheries Management Council. It is the Council's responsibility to manage the groundfish fisheries in U.S. federal waters off Alaska. I am serving my third and final term, having been appointed twice by Governor Gary Locke and once by Governor Christine Gregoire.

Steve Eugster and I first met in 1966 as first year students at the University Washington School of Law and both graduated with the Class of 1969. We both were on Law Review. We have been friends over all the years since then. Many years ago, Steve brought me in to do volunteer work for the U of W Law School Foundation.

I am aware of Steve's case before the Supreme Court of the State of Washington, Case No.: 200,568-3. Based on my long history with Steve, and having had numerous discussions with him on all sort of topics and observed his behavior on many occasions, it is my strong opinion that Steve is a very decent, honest person who would not be a threat to anyone seeking his professional legal services. For these reasons, it is my opinion that he should not be suspended from the practice of law pending disposition of his case before the Supreme Court.


M JOHN BUNDY

0 6047

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

DOUGLAS B. BURPEE

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, DOUGLAS B. BURPEE, under
penalty of perjury under the laws of the state of Washington, declare as
follows:

1. I am over the age of eighteen and competent to be a witness in
these proceedings.
2. I make the following statements herein and in the attachment
hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this
reference

Signed at Spokane, Washington on
April 9, 2008.

Douglas B. Burpee
DOUGLAS B. BURPEE
(Printed Name)

April 9, 2008

My name is Douglas B. Burpee and I have been a client of Mr. Steven Eugster for approximately 20 years. I have owned and operated several businesses in the State of Washington, primarily in the greater Spokane area. I have also owned various pieces of real estate in and around Spokane.

Over the past couple of decades, Mr. Eugster has always represented me well in my various transactions and he has also helped me successfully with personal legal matters. In 1998, I sold a Diesel Engine Distributorship, and I utilized Mr. Eugster as my attorney of record in this transaction. Mr. Eugster did an excellent job for me. He gave me the appropriate advice, which I followed, and prepared all of the documents on time, and correctly. Most importantly, Mr. Eugster did an admirable job representing me and my needs to the other side of the transaction. I was very pleased with Mr. Eugster's representation. I was particularly impressed with not only Mr. Eugster's legal advice, but with his personal advice as well. He had a great way of personalizing the transaction when necessary, which made things much easier and more understandable for me.

As the need arises, I hope to utilize Mr. Eugster as my attorney going forward. I am sure there are many other clients of his that feel the same way. Mr. Eugster has a very valuable client base that relies on his expertise. I hope the Court will allow Mr. Eugster to continue to practice law while his case is in review.

Thank you for your consideration.


Douglas B. Burpee

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

COLBY CHESTER

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

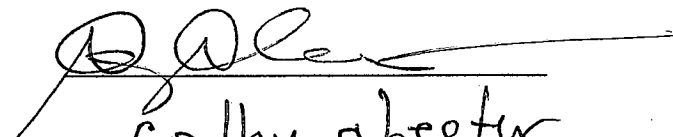
I, Colby Chester, under

penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein and in the attachment hereto based upon my own personal knowledge.
3. The attachment hereto is hereby incorporated herein by this reference

Signed at Seattle, Washington on

4/8, 2008.


Colby Chester
(Printed Name)

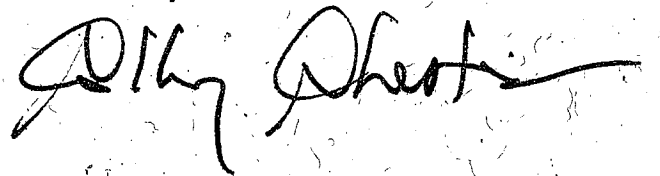
April 8, 2008

In the matter of BAR vs. Steve Eugster:

I, Colby Chester, a resident of Seattle, WA., a professional actor and free-lance photographer, make the following declaration:

I have known Steve Eugster since our days as college friends at The University of Denver in Denver, Colo., between 1962 and 1965. Steve was then and remains today a good and loyal friend. I consider him an honest and caring lawyer, based on our conversations over the past few years. I sought his advice last year regarding certain issues of concern with regard to the recently-defeated RTID initiative process here in King County. His knowledge of the law and suggestions specific to the issues at hand were greatly appreciated.

Steve has always seemed to me to be trustworthy and respectful of the law, and I have seen no indication from his behavior or conversation that he should not be allowed to continue to practice in this state.

A handwritten signature in black ink, appearing to read "Colby Chester", with a long horizontal flourish extending to the right.

ORIGINAL

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

**DECLARATION OF
ALLEN D. CLARK**

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

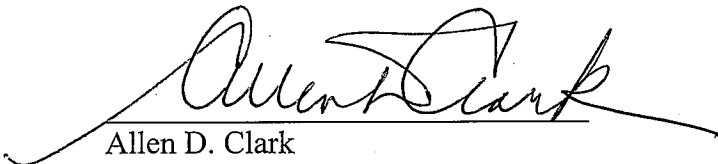
0 0054

I, ALLEN D. CLARK, under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein based upon my own personal knowledge.
3. I have been a practicing attorney in the state of Washington since 1969.
4. Throughout my legal career, I have practiced with the firm of Davis, Wright, Todd, Riese & Jones, now Davis Wright Tremaine LLP.
5. I am a partner at Davis Wright Tremaine LLP and have previously served in various capacities in the firm, including Partner-in-Charge of the Bellevue and Seattle, Washington and Shanghai, China offices.
6. I have known Stephen K. Eugster since the fall of 1970 when Steve came to work as an associate at Davis, Wright, Todd, Riese & Jones.
7. Over the years, we became good friends.

8. While practicing law at Davis, Wright, Todd, Riese & Jones, I believe that Steve practiced mainly in the areas of estate planning, trusts, probate and related life planning.
9. I have remained a friend of Steve's throughout our careers.
10. I know Steve to be a serious, thoughtful, dedicated and honest person and, as a result, believe him to be a serious, thoughtful, dedicated and honest lawyer.
13. I do not believe that, in the period between now and the time the Supreme Court renders its decision in these proceedings, Steve should be suspended from the practice of law. I respectfully request that you allow him to continue practicing law until you make your final decision in his case.

Signed at Seattle, Washington on April 8, 2008.



Allen D. Clark
Washington State Bar No. 1345

Case No. : 200,568-3

SUPREME COURT OF THE STATE OF WASHINGTON

In re STEPHEN K. EUGSTER,

an Attorney at Law,

WSBA Bar No. 2003

DECLARATION OF

OWEN F. CLARKE, JR

Kris J. Sundberg
WSBA 14549
P.O. Box 1577
3023 - 80th Ave., S.E. #200
Mercer Island, WA 98040
PH. 206.230.0210
FAX: 206.236.0525

Shawn Timothy Newman
WSBA 14193
2507 Crestline Drive, N.W.
Olympia, WA 98502-4327
PH. 360. 866.2322
FAX 866.800.9941

I, OWEN F. CLARKE, JR., under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over the age of eighteen and competent to be a witness in these proceedings.
2. I make the following statements herein based upon my own

personal knowledge.


3. I have been a practicing attorney for over 40 years and a member in good standing of the Washington State Bar Association since September, 1976.
4. The majority of my time in law practice in the state of Washington was with the Washington Attorney General's Office. I retired as a Senior Assistant Attorney General in June of 2003 and practiced for several years thereafter as a volunteer supervising attorney at the Gonzaga Law School legal clinic. I am currently an inactive member of the Washington State Bar Association.
5. I have been personally acquainted with Steve Eugster for about 20 years. During the period of our acquaintance I have observed Steve in the courtroom, in local politics, and as a citizen activist.
6. I have generally been aware of the disbarment proceedings against Steve, mostly from newspaper articles I have read. I do not know whether the underlying merits of the Bar Association's complaint against him warrant discipline, or if so, what level of discipline would be appropriate. My concern is that the Bar Association's effort to suspend him immediately while his case is under review could be based on prejudice more than necessity.

7. Steve Eugster is an unpopular figure in some influential circles. In his roles as an attorney, a former Spokane City Council member, and as an advocate for what he perceives as the public interest, he has sometimes angered powerful people including lawyers, judges, public officials, and big money business interests. He has a tendency towards making judgmental and caustic remarks about his opponents that often manage to find their way into the press. He can come across as arrogant and self-righteous. His litigiousness is legendary and he doesn't always win. I know there are people who relish his current legal predicament and are happy to tell you that they can't wait to see him get his comeuppance.
8. Those things said, I have never questioned Steve's ethical compass or the sincerity of his convictions regardless of how unorthodox or unpopular they may have been. I am told that in 36 years of practicing law he has never, until now, had a bar complaint against him. So, I ask myself why is it so important to suspend him from practicing law even before his case has been reviewed by this court? Is it because the Bar Association believes he poses some imminent threat to the public or the profession, or is it because he is viewed as a pain in the neck that some people want gone?

9. I have had one experience with Steve Eugster as a client. In 1995, my wife and I hired him to represent us in a commercial lease transaction. It was not an entirely satisfactory experience primarily because we felt Steve spent too much time talking about his latest crusade against the evils of public/private partnerships (the Seattle stadium case as I recall) instead of getting our lease transaction done. When the matter was completed and we received our final bill, I was unhappy with the amount because I felt we had been billed for some of the lecture time. I asked Steve to review the charges and shortly thereafter, we received a letter from him (a copy of which is attached hereto) stating that he had adjusted his fee and apologizing for his preoccupation with the other case. It was the ethical thing to do and he did it immediately upon recognizing his error.
10. I sincerely hope the court will carefully examine the factual basis for the Bar Association's request for suspension and assure that emotion does not deprive him of his right to be treated fairly.

Signed at Spokane, Washington on

April th16, 2008.


OWEN F. CLARKE, JR.
WSBA # 6779

Law Offices
Eugster Haskell
Professional Service Corporation

Stephen K. Eugster
Stephen Haskell
Christopher M. Grimes

Telephone (509) 624-5566
Facsimile (509) 838-4274

August 3, 1995

Julie and Fritz Clarke
E. 716 - 25th Avenue
Spokane, WA 99203

Re: **Baker/Clarke Lease**

Dear Fritz and Julie:

Thanks for the letter Fritz.

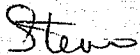
As I see it there is nothing more for me to do. (I presume that the unrecorded deeds which you mentioned are in the process of being recorded.)

I will be watching for developments on the building and will try to resist the temptation to put a pair of jeans on and come over to help with the "gutting out" in anticipation of the work that you will be doing. That part of the project has always enlivened me.

I fully trust that all will work out well.

Finally, I would like to apologize for the billing mistake. Also, I would like to apologize for being abrupt from time to time as we worked on the project. I must admit that I was not handling very well the stress of the activities I had on my plate at the time. The activities have lessened and I hope that a more relaxed and more professional person will arise once again.

Best wishes,



Stephen K. Eugster

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